THE HON'BLE SRI JUSTICE S. ANANDA REDDY

WRIT PETITION No.17822 of 2005

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Dated: 12-08-2005

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Between:

M. Sambasiva Rao, S/o. M. Venkatappaiah,

aged about 55 years, OCC: Assistant Librarian,

(Under orders of removal), R/o. Poranki,

Krishna District.

… Petitioner

And

The Commissioner, Department of Technical

Education, Govt. of A.P., Hyderabad, and another.

… Respondents

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

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WRIT PETITION No.17822 OF 2005

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ORDER:

This writ petition is filed by the petitioner aggrieved by the orders of the first respondent refusing to entertain the appeal on the premise that an appeal does not lie to him with reference to the un-aided private educational institution in terms of the judgment of the Apex Court in **T.M.A. PAI FOUNDATION v. STATE OF KARNATAKA**.

2. The learned Counsel for the petitioner contended that as per the premise of the provisions of the Andhra Pradesh Education Act, 1982
(for short 'the Act), the Act applies to all educational institutions and tutorial institutions in the State except those specified in sub-section (3) of Section 1 of the Act. It is also contended that as per the provisions of the Act and a reading at paragraph 64 of the judgment referred supra, clearly confirms the stand of the petitioner that an appeal would lie as is provided under Section 80 of the Act and the rejection of the appeal without entertaining the same is illegal and unsustainable.

3. The learned Government Pleader however sought to sustain the order and the stand of the first respondent contending that the second respondent institution is a private un-aided educational institution therefore the writ petition is not maintainable in view of the judgment dated
01-02-2005 passed in W.A.No.108 of 2005 by this Court. The learned Government Pleader also contended that in terms of the judgment of the Apex Court if there is a dispute between the employer and the employee, the employee has to approach the Civil Court and cannot file an appeal as contemplated under Section 80 of the Act. Therefore, there is no merit warranting interference of this Court.

4. Heard the learned Counsel for the parties and perused the material on record.

5. *Prima facie*, the stand of the Government Pleader is not acceptable to this Court. As it is apparent from the provisions of the Act,

it applies to all educational institutions except those specifically excluded.

If so, the second respondent institution would also be covered by the provisions of the Act. As the petitioner was removed from service, an employee who is aggrieved by any order of removal, is provided with a right of appeal under Section 80 of the Act. Therefore, it is appropriate for the first respondent to entertain the appeal and decide the issue on merits. Accordingly, the impugned order dated 07-04-2005 is set aside and the matter is restored to his file to entertain the appeal and decide the same on merits, expeditiously preferably within a period of three months from the date of receipt of a copy of this order.

6. The writ petition is accordingly disposed of. No costs.

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JUSTICE S. ANANDA REDDY

Dt.12-08-2005

GLV